

IN RE: PETITION FOR ZONING VARIANCE
2/3 Cross Street, 34.7' E of
Belle Avenue
(4005 Cross Street)
13th Election District
1st Councilmanic District
Richard S. Clatchey, Jr., et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-294-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a petition for Zoning Variance in which the Petitioners herein request a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an enclosed porch with a rear yard setback of 18 feet in lieu of the minimum required 22 feet, and an open porch with a rear yard setback of 16 feet in lieu of the minimum required 22 and 1/2 feet in accordance with Petitioner's Exhibit 1.

The Petitioners, Richard and Cynthia Clatchey, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 4005 Cross Street, consists of 6,055 sq. ft. zoned O.R. 5.5 and is improved with a single family dwelling and above-ground swimming pool. Approximately six months ago, Petitioners commenced construction of an enclosed porch with two attached open decks on both sides of the porch in accordance with that depicted on Petitioner's Exhibit 1 without benefit of a building permit. Testimony indicated that upon receipt of a stop work order by the Department of Permits and Licenses, Petitioners were advised that variances would be required in order to complete construction due to the close proximity of the proposed improvements to the rear property line. Petitioners testified the relief requested is necessary as Mrs. Clatchey has Lupus

disease and cannot be exposed to the sun for any length of time. Further testimony indicated that there is no access to the rear yard from the back of the house and that the proposed decks would provide same from both sides of the dwelling. In support of their request, Petitioners submitted letters from five of their surrounding affected neighbors indicating they have no objections to the proposed improvements. Testimony indicated the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that strict compliance with the B.C.Z.R. would result in practical difficulty and unreasonable hardship. Furthermore, the granting of the Petitioner's request is in strict harmony

with the spirit and intent of the B.C.Z.R. and will not result in any injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of April, 1992 that the Petition for Zoning Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an enclosed porch with a rear yard setback of 18 feet in lieu of the minimum required 30 feet, and an open porch (deck) with a rear yard setback of 16 feet in lieu of the minimum required 22 and 1/2 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 4/8/92
By [Signature]

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 857-4396

April 2, 1992

Mr. & Mrs. Richard S. Clatchey, Jr.
4005 Cross Street
Halethorpe, Maryland 21227

RE: PETITION FOR ZONING VARIANCE
S/S Cross Street, 34.7' E of Belle Avenue
(4005 Cross Street)
13th Election District - 1st Councilmanic District
Richard S. Clatchey, Jr., et ux - Petitioners
Case No. 92-294-A

Dear Mr. & Mrs. Clatchey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 801-1391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

✓file

Petition for Variance

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1. To allow an enclosed porch with a rear yard setback of 18 feet and an open porch with rear yard setback of 16 ft. in lieu of the minimum required 30 ft. & 22 1/2 ft. respectively.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

We need access to the back of our house. My wife has lupus and cannot be exposed to the sun for long periods of time.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Legal Owner(s):

Richard S. Clatchey, Jr.

Richard S. Clatchey, Jr.

Cynthia L. Clatchey

Cynthia L. Clatchey

Cynthia L. Clatchey

Cynthia L. Clatchey

Cynthia L. Clatchey

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Cynthia L. Clatchey

Cynthia L. Clatchey

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: / / Account: R-001-6150
Number: 312

Check Validation

Please Make Checks Payable To: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date: 92-294 Account: R-001-6150
Number:

Cashier Validation

Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

DATE: 2/25/92

Richard S. Clatchey, Jr. and Cynthia L. Clatchey
4005 Cross Street
Baltimore, Maryland 21227

RE:
CASE NUMBER: 92-294-A
S/S Cross Street, 84.7' E of Belle Avenue
4005 Cross Street
13th Election District - 1st Councilmanic
Petitioner(s): Richard S. Clatchey, Jr. and Cynthia L. Clatchey

Dear Petitioner(s):

Please be advised that \$89.45 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING ON THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

ARNOLD JABLON
DIRECTOR

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

FEBRUARY 4, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-294-A
S/S Cross Street, 84.7' E of Belle Avenue
4005 Cross Street
13th Election District - 1st Councilmanic
Petitioner(s): Richard S. Clatchey, Jr. and Cynthia L. Clatchey
HEARING: THURSDAY, MARCH 19, 1992 at 9:00 a.m.

Variance to allow an enclosed porch with a rear yard setback of 18 feet and an open porch with a rear yard setback of 16 feet in lieu of the minimum required 30 feet and 22-1/2 feet, respectively.

Laurence S. Schmidt
Zoning Commissioner of
Baltimore County

cc: Richard and Cynthia Clatchey

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

February 25, 1992

Mr. & Mrs. Richard S. Clatchey, Jr.
4005 Cross Street
Halethorpe, MD 21227

RE: Item No. 312, Case No. 92-294-A
Petitioner: Richard S. Clatchey, et ux
Petition for Variance

Dear Mr. & Mrs. Clatchey:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Printed on Recycled Paper

Zoning Plans Advisory Committee Comments
Date: February 25, 1992
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,
W. Carl Richards, Jr.
Zoning Coordinator

WCR:jw
Enclosures

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

Your petition has been received and accepted for filing this 31st day of January, 1992.

ARNOLD JABLON
DIRECTOR

Received By:
W. Carl Richards, Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Richard S. Clatchey, et ux
Petitioner's Attorney:

Printed on Recycled Paper

92-294-A 3-19
5/17/92

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: March 3, 1992

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: February 11, 1992

This office has no comments for item numbers 305, 309, 310, 311 and 312.

Rahee J. Famili
Traffic Engineer II

RJF/lvd

RECEIVED
MAY 3 1992
ZONING OFFICE

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21204-5500 (301) 887-4500

FEBRUARY 5, 1992

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: RICHARD S. CLACHEY, JR. AND CYNTHIA L. CLACHEY
Location: 4005 CROSS STREET
Item No.: 312 Zoning Agenda: FEBRUARY 11, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Noted and
Approved
Special Inspection Division

JP/KEK

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: February 13, 1992
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
For February 11, 1992

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 305, 309, 310, 311 and 312.

For Items 171 (Case #91-171-A) and 265 (Case #92-254-A), the previous County Review Group Comments remain valid.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

BALTIMORE COUNTY
ECONOMIC DEVELOPMENT COMMISSION

Memorandum

TO: Julie Winiarski
Office of Zoning Administration and
Development Management
FROM: A. J. Haley, Deputy Director
Economic Development Commission
DATE: February 5, 1992
RE: Zoning Advisory Comments for Meeting of February 11, 1992

This office has no comment for items 305, 309, 310, 311 or 312.

RECEIVED
FEB 6 1992

ZONING OFFICE



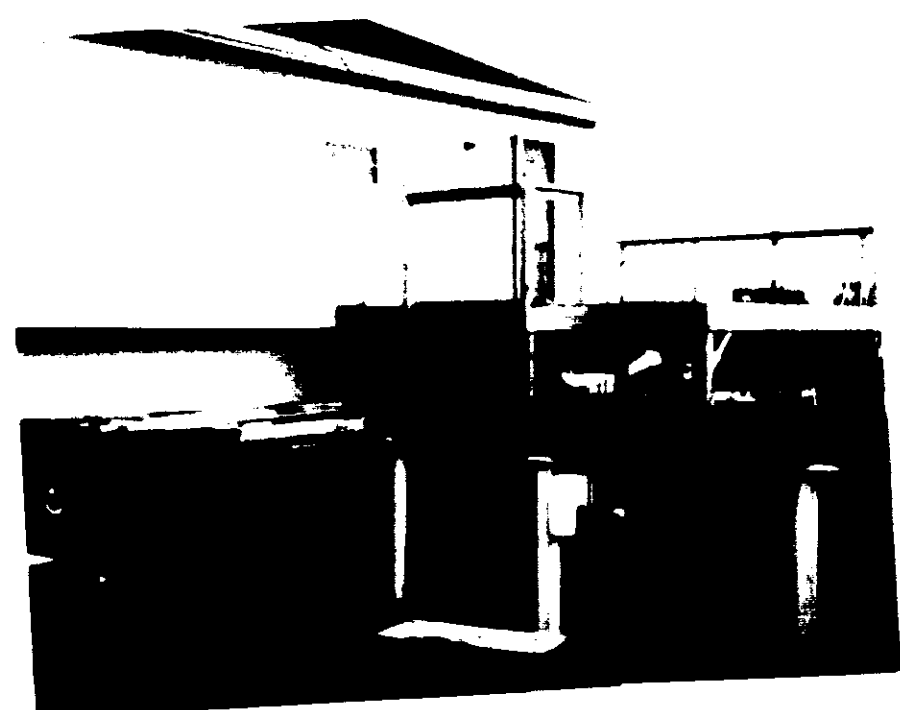
92-294-A



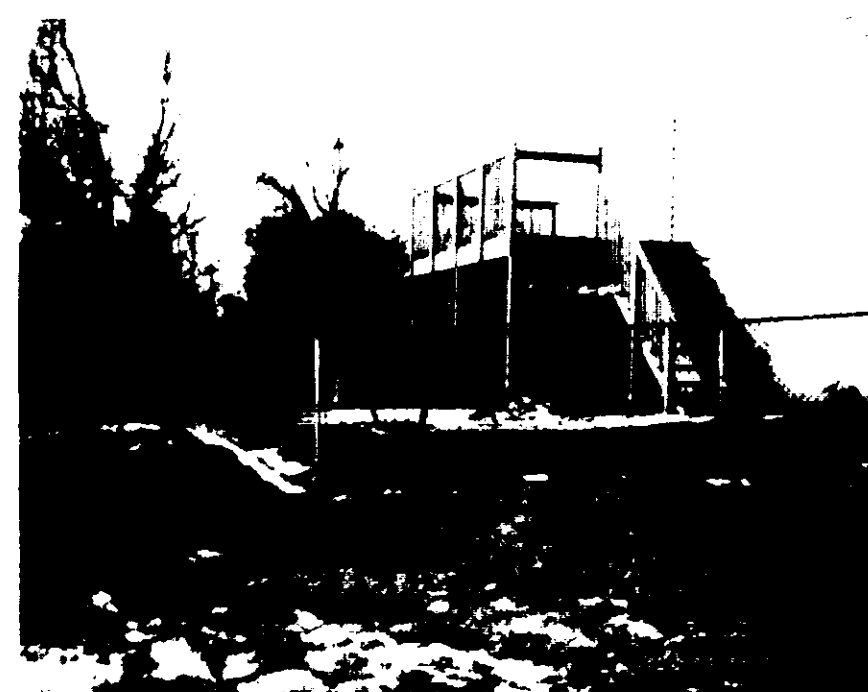
Petitioner's Ex #2



92-294-A



92-294-A



Petitioner's Ex #4

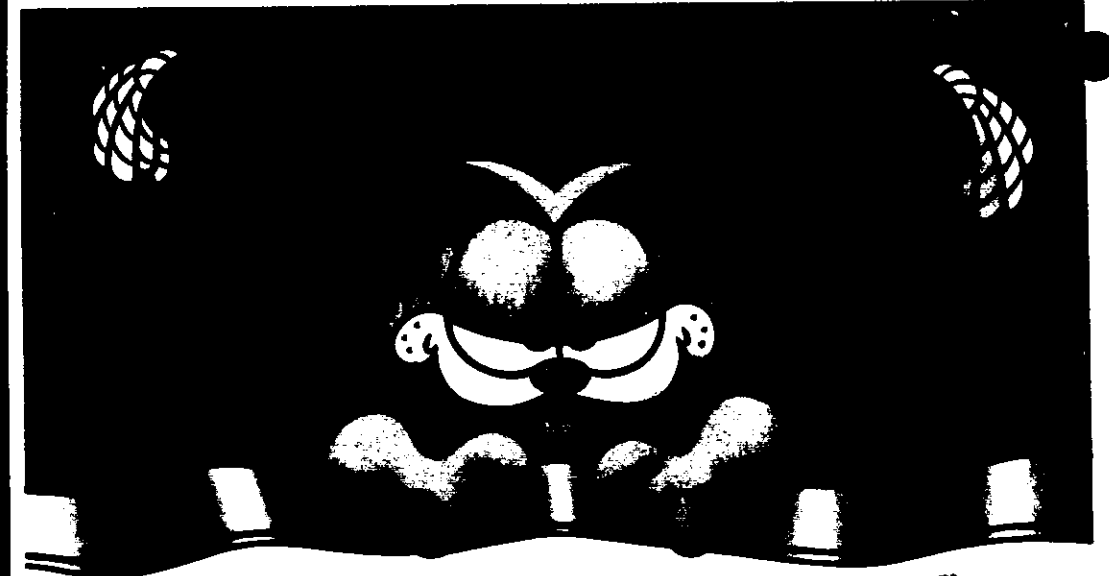
To whom it may concern,
We Robert + Sherri Shutter of
1950 Brady Avenue, Baltimore MD 21227
(242-4917) do not object to Richard
+ Cynthia Clatchey of 4005 Cross Street
Baltimore, Md. 21227 in putting up a deck
on their property, it would in no way
be a bother to us.

Sincerely,
Mr + Mrs Shutter

January 29, 1991

To Whom It May Concern,
We have no objection to
Richard + Cynthia Clatchey of
4005 Cross St
Baltimore Md 21227
To add on a sunroom +
two decks with one on each
side of their present home.

Sincerely,
John + Betty Rosenberger
1947 Bell Ave
Baltimore Md 21227



1-27-92

To Whom It May Concern,
As next door neighbors
of Mr + Mrs Clatchey we do not
oppose the construction of a sun
room with two decks at 4005
Cross St. 21227.

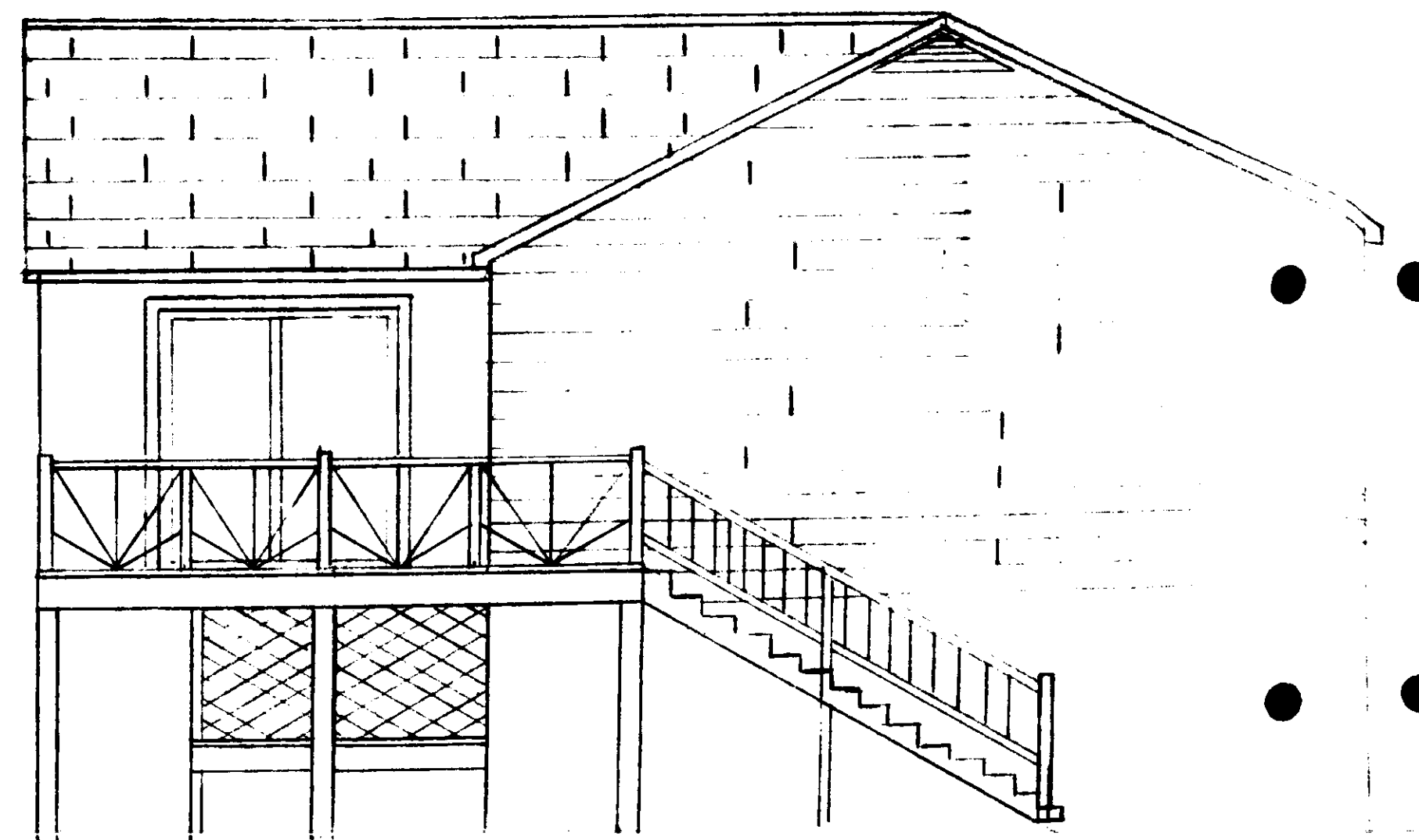
Mr + Mrs Hans Le Bon
1945 Brady Ave
Baltimore Md
242-7482

To Whom It May Concern,
Mr + Mrs James Schmit has no
objection to Mr + Mrs R. L. Clatchey
building their two decks with sun
room.

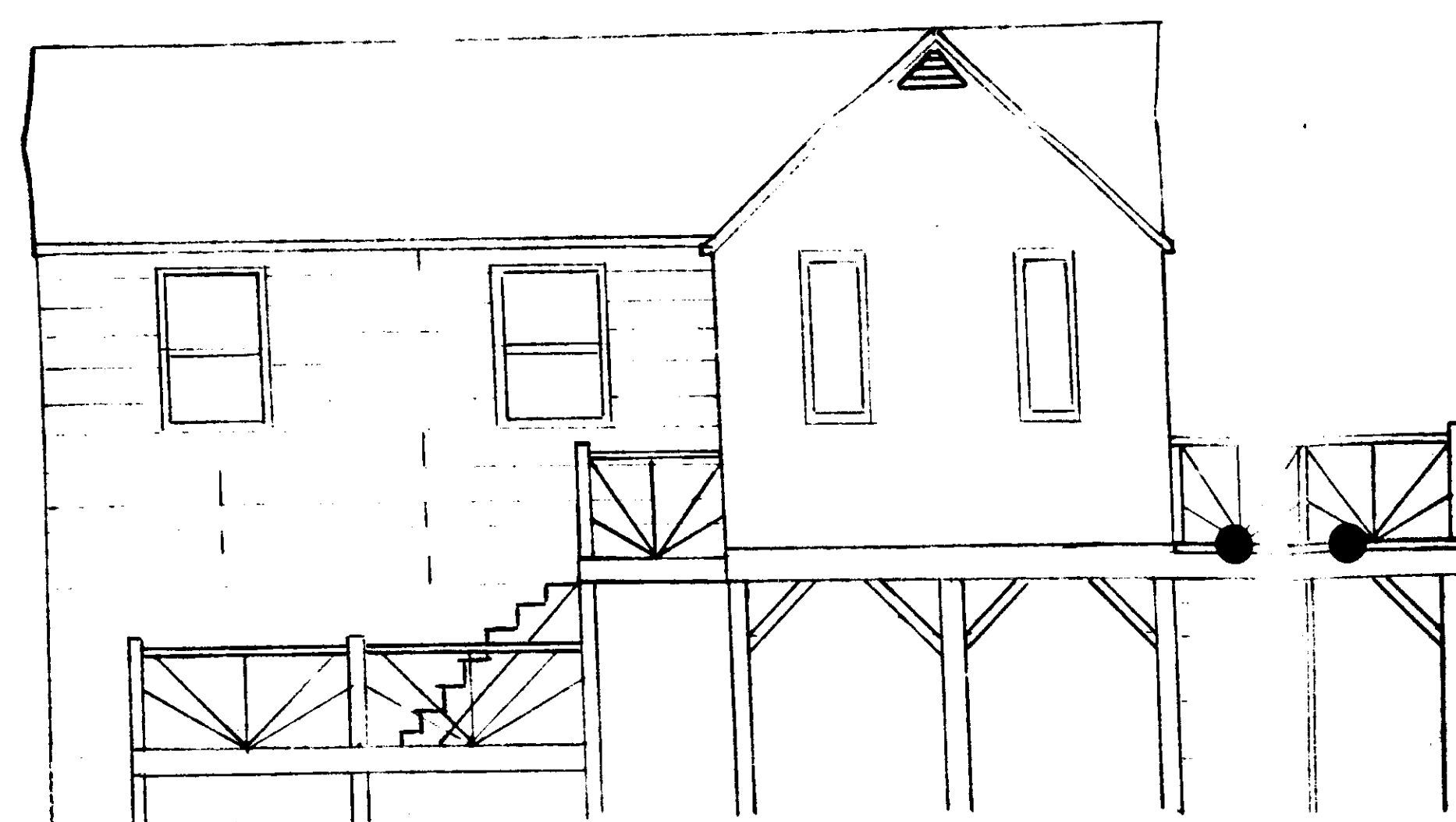
Mr + Mrs James Schmit
1945 A Bell Ave
242-5586

To Whom it May Concern,
I, Donald E. Wanfield, of
1945 Brady Ave 21227 being
a neighbor of Mr. Richard Clatchey
do not oppose of the construction
of a Sun Room + 2 decks at 4005
Cross St. 21227.

Donald E. Wanfield
1945 Brady Ave
Baltimore Md 21227
242-2740



SIDE VIEW



BACK VIEW

92-294-A

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

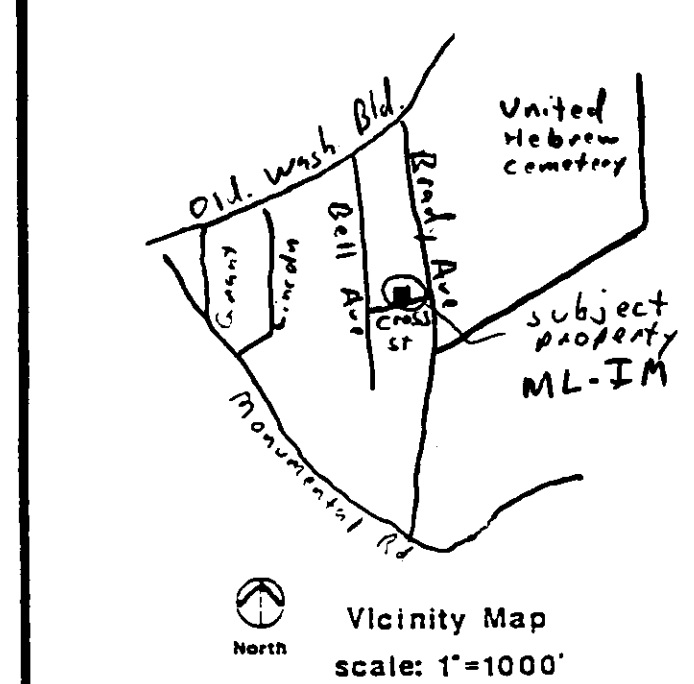
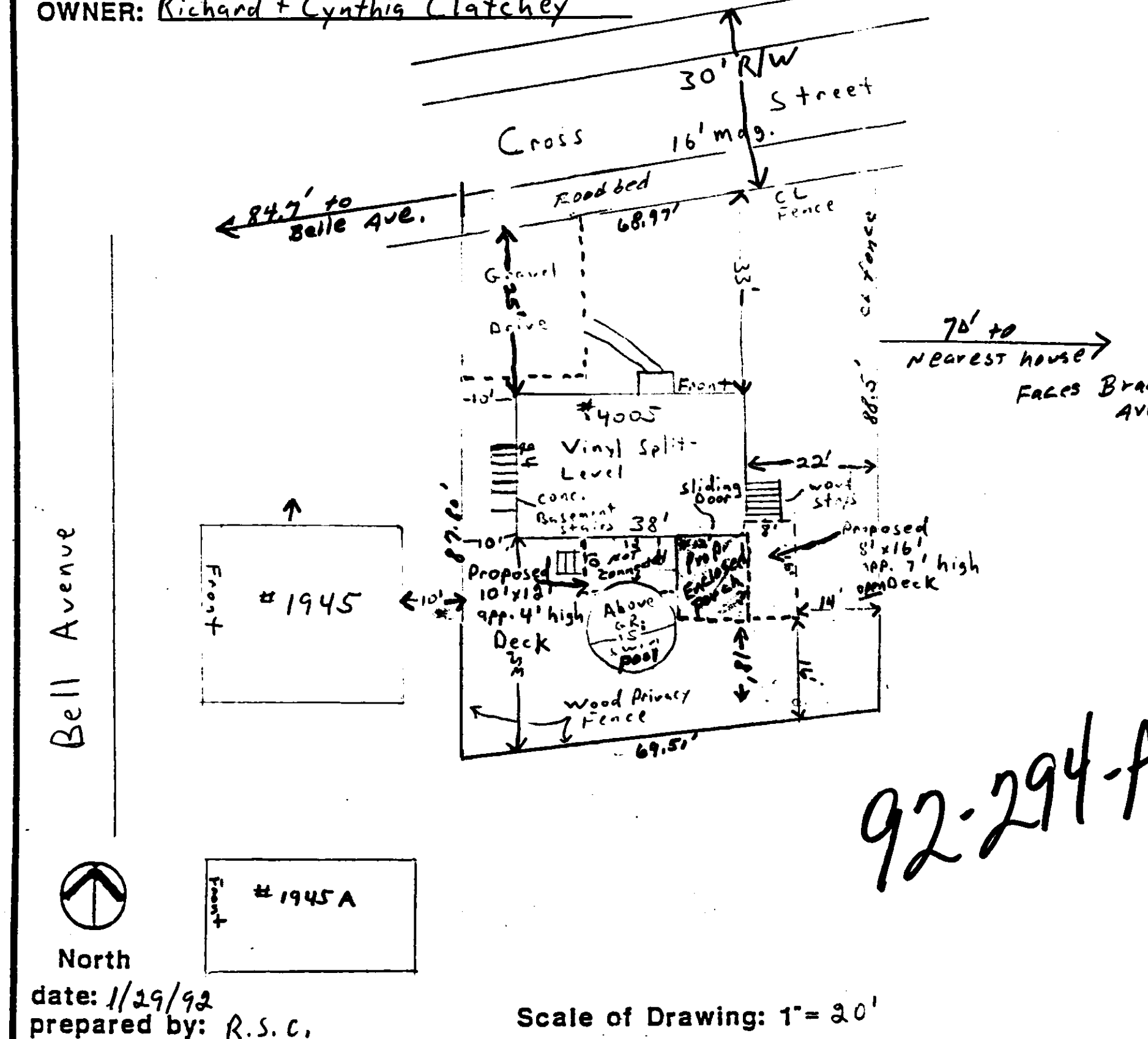
PROPERTY ADDRESS: 4005 Cross St.

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Oak Park

plat book # 3, folio # 145, lot # 24, section #

OWNER: Richard + Cynthia Clatchey



LOCATION INFORMATION

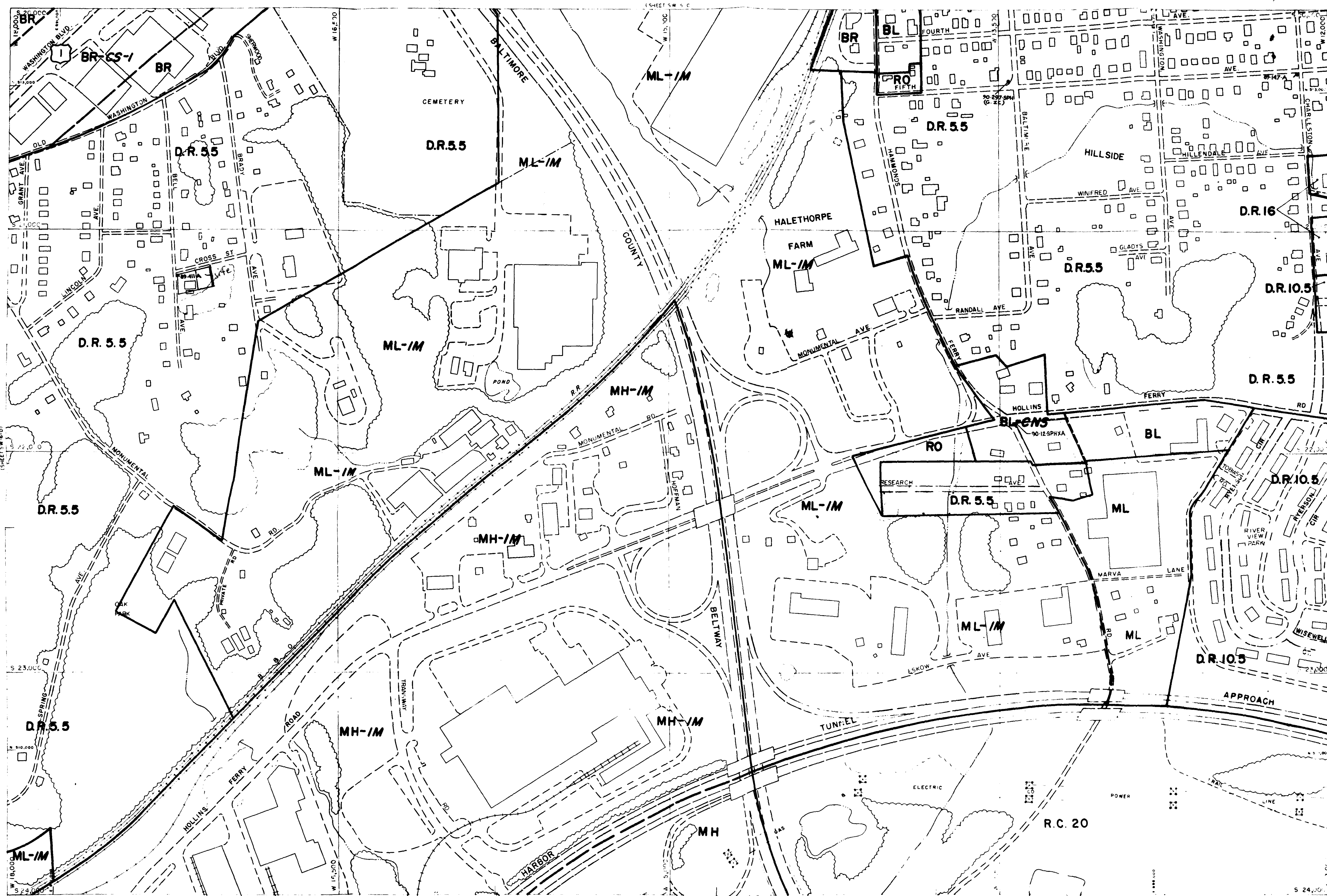
Councilmanic District: First
Election District: 13th
1"=200' scale map: S.W. 6-C
Zoning: DR-5.5
Lot size: 0.14 acreage 60.55 square feet
SEWER: ☒ ☐
WATER: ☒ ☐
Chesapeake Bay Critical Area: ☐ ☒
Prior Zoning Hearings: 89-411-A

Zoning Office USE ONLY!

reviewed by: ☒ ITEM #: 312 CASE#: ☒

JOSEPH H. MILLER, M.D., P.A.
PULMONARY MEDICINE
ST. AGNES HOSPITAL
400 S. CATON AVENUE
BALTIMORE, MARYLAND 21229
February 14, 1992
Re: Cynthia Clatchey
4005 Cross Street
Baltimore, MD 21227
To Whom It May Concern:
I have rendered medical care to Mrs. Cynthia Clatchey since October 1989. She has been treated for systemic lupus erythematosus. Because of the diagnosis of lupus, she cannot be directly in the sun since this worsens her ailment. She would like to add a sunroom onto her home so that she will be able to enjoy the sun without being directly in it. The addition of this room would be helpful to the patient's general health and well being. Hopefully her request can be granted.
Yours truly,
Joseph H. Miller, M.D.
JHM/mbb

Petitioner's Exhibit #5



G-SW
C-NW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Per. 1, 1988
B.C. Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE
1" = 200' ±
DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
MONUMENTAL

SHEET
S.W.
6-C

92-294-A

312